

Informal Comments of The Alliance for Solar Choice Following the Public Workshop Discussion of NEM Successor Tariff or Contract Options.

May 30, 2014

The Alliance for Solar Choice (TASC) submits these informal comments on the Guiding Principles, possible Program Elements and follow-up questions from Energy Division Staff contained in the Request for Formal Comments emailed to the service list in R.12-11-005 on May 16, 2014. TASC appreciates the opportunity to provide further comment on the updated Guiding Principles and Program Elements developed by Energy Division Staff that will be used to guide future efforts in developing a successor NEM tariff.

Comments on Possible Guiding Principles for the Successor Tariff or Contract

Guiding Principle #1: “The successor tariff or contract should be consistent with, and balance, the legislative goals identified in AB 327.”

TASC supports a clear-eyed focus on the legislative mandates of AB 327 as one of the guiding principles for stakeholders to embrace during upcoming discussions. A careful reading of the goals enumerated in Public Utilities Code 2827.1(b)(1)-(5) reveals that these goals are focused on ensuring California’s energy consumers have continued access to customer-sited renewable distributed generation (DG). Out of these five standards, two are specifically customer-oriented and call for expanding access to customer-sited renewable DG beyond the current NEM regime. The first standard calls for continued, sustained *growth* in customer-sited renewable DG with specific options for disadvantaged communities. The fifth standard calls for allowing projects greater than 1 MW that do not have significant impacts on the grid, that are subject to reasonable interconnection fees, to have access to the tariff. The language from Public Utilities Code 2827.1(b)(1)-(5) provides clear guidance to stakeholders that the Legislature sees expansion of access as one of the goals of the successor tariff.

Additionally, two of the five standards are focused on weighing the costs and benefits of customer-sited renewable DG from the perspective of the renewable generator, the electrical system and all customers. These standards demand that the coming discussion be informed by updated analysis of the costs and benefits of customer-sited renewable DG. Most importantly in future updates to any cost-benefit analysis there must be a recognition that AB 327 calls for assessment of the costs and benefits to *all* customers. This language provides clear direction to stakeholders that the assessment of costs and benefits should be broadly considered, as all members of society (except for those utilizing off-grid energy systems) are energy customers.¹ Updated cost-benefit information is also critical to ensure that all stakeholders have a common understanding of whether alternative proposals to California’s successful NEM program are warranted and what level of change, if any, is needed to bring the successor tariff in to alignment

¹ See Keyes, Jason B., Rábago, Karl R., Regulator’s Guidebook: Calculating the Benefits and Costs of Distributed Solar Generation, Interstate Renewable Energy Council, Inc. and Rábago Energy, LLC, October 2013, at pg. 13. Available at http://www.irecusa.org/wpcontent/uploads/2013/10/IREC_Rabago_Regulators-Guidebook-to-Assessing-Benefits-and-Costsof-DSG.pdf

with the standards contained in AB 327. Without this updated information, not only would the Commission be unable to make findings necessary to meet the statutory standards identified in AB 327, parties may expend resources developing and evaluating changes to a policy that is fundamentally not broken. Such an outcome would not only be a waste of valuable Commission and stakeholder resources but would also profoundly disrupt the market which is directly contrary to the requirement in AB 327 that the successor tariff allow for continued, sustained growth in customer-sited renewable DG. As part of this cost-benefit analysis, we believe the Commission must also continue to reform utility business models and planning processes in order to fully unlock the benefits customer-sited renewable DG can provide and incorporate these efforts in to the cost-benefit methodologies used to analyze whether an unacceptable cost-shift exists under NEM and the solutions parties will put forward in any successor tariff.

Guiding Principle #2: “The successor tariff or contract should provide market certainty and predictability, considering customer expectations and long-term benefits of distributed generation.”

TASC appreciates the inclusion of this Guiding Principle among those being considered. When it comes to designing programs to transform markets, one of the central lessons learned from the success of the California Solar Initiative is that market certainty and predictability are essential to attract sustained investment from the private sector and energy consumers. Market certainty and predictability are also critically important to maintaining options for customer financing that are currently available in the marketplace including PACE financing, third-party ownership, and utilization of home equity lines of credit. Stability and certainty allow the investment community to understand the risk involved in providing capital to support customer investment. Without certainty and predictability, we believe California’s DG market could slide back to a world of cash-only purchases, which would severely undermine the continued, sustained growth in customer-sited DG.

We also support focusing on customer expectations, as it is the customer’s decision to make an investment in renewable DG that ultimately will determine whether continued, sustained growth in customer-sited renewable DG continues as required by AB 327. One customer expectation that is often not adequately considered is the customer’s expectation that they will receive the financial benefits from the investments they make in distributed energy resources. Part and parcel of this understanding is recognition by stakeholders in coming discussions that energy consumers have a fundamental right to self-generate and consume energy they produce on their private property. We will discuss this concept further below.

Focusing on the long-term benefits of DG is also the right approach. Customer-sited DG is a long-lived asset and should be evaluated as such. However, current efforts by Commission consultants to evaluate the costs and benefits of DG on a long-term basis have fallen short as parties have noted in prior comments on E3’s methodology. We encourage staff to address the concerns stakeholders have raised regarding the shortcomings of the E3 model during development of the Public Tool in order to more accurately value DG resources over the long term.

Guiding Principle #3: “The successor tariff or contract should encourage simple, transparent, and equitable policies for all customers.”

TASC agrees that simplicity, transparency and equity are important components of successful policies that are focused on promoting customer investment as a means to meet the state’s energy goals. Equity concepts are embodied in AB 327 through its focus on ensuring any successor tariff balances the costs and benefits of customer-sited DG facilities to the facility owner, all energy consumers and the electrical grid. Underpinning notions of equity is also that the tariff be nondiscriminatory towards customers that invest in customer-sited renewable DG. Reduction in customer load due to installation of customer-sited renewable DG should be viewed no differently than a customer who reduces their energy purchases due to changes in their behavior, such as watching less television, or through investments in more efficient lighting or appliances. AB 327’s standards concerning costs and benefits incorporate equity concepts by requiring that any successor tariff balance the costs and benefits to DG owners, all customers and the electrical grid. As noted previously, however, current PUC methodologies need to be updated to correct flaws in the underlying methodology so that a broader view of benefits will be considered that incorporates all customers (society) and takes a truly long-term view of the benefits customer-sited DG is able to provide. Nondiscrimination is also a fundamental component of federal regulations concerning the treatment of qualifying facilities.² Since nearly all customer-sited renewable DG are qualifying facilities under FERC regulations, any differential treatment of customers investing in customer-sited DG must be data driven and cost based.

Guiding Principle #5: “The successor tariff or contract should be flexible, and include processes for future review and modification.”

There is an inherent tension in having a tariff that provides market certainty but is also flexible and subject to future review and modification. TASC agrees that future review and modification of any successor tariff should be available in order to ensure that customer-sited renewable DG continues to grow sustainably as required by AB 327. At the same time, actions can be taken that can harmonize the need for future review and modification with the need for market certainty and predictability, including: (1) clearly communicating with stakeholders well in advance of any proposed changes on the need for changes to the tariff, (2) requiring transparency in the decision-making process related to any proposed change, and (3) grounding proposed changes in the standards enumerated in AB 327 that underpin Guiding Principle #1. Market certainty and predictability can be enhanced by recognizing that changes should be prospective, not retroactive, and that grandfathering should be part of the conversation related to any future changes depending on their magnitude.

It is unclear based on discussion at the workshop what may be the intent of inclusion of flexibility as a component of any successor tariff. It seems self-evident that any successor tariff may also need to be modified over time in order to ensure sufficient revenue to maintain a healthy grid, but as noted above, there is an inherent tension between a flexible, modifiable successor tariff and providing the level of market certainty and predictability necessary to provide for continued, sustained growth in customer-sited renewable DG as required under AB

² See 18 CFR 292.305(a).

327. To the extent flexibility is meant to incorporate ideas around meeting particular customers' desires for tariff options related to their investment in customer-sited renewable DG, such as farmers wanting a simple option to sell power to the utility in a commercial transaction, multiple tariffs could be developed that address these needs or preferences, such as a buy all/credit all tariff, while maintaining a simple, transparent and predictable NEM option that meets the requirements of AB 327. Such an outcome is similar to the development of meter aggregation and virtual net metering to address the particular needs of certain customer segments in order to support their investment in customer-sited renewable DG under the current NEM program and the successor tariff should similarly accommodate the needs of customers' particular circumstances.

Guiding Principle #6: “The successor tariff or contract should be consistent with other PUC policies and goals involving distributed energy resources, including, but not limited to: Energy efficiency, zero-net-energy, energy storage, demand response, integrated demand-side management, renewable energy credits (RECs).”

TASC agrees that any successor tariff should be consistent with the Commission and state's goals concerning distributed energy resources. This includes consistent cost-benefit methodologies focused on the long-term in evaluating support for these resources. The most important aspect of meeting these goals is a recognition by stakeholders that the choice to invest in distributed energy resources (DER) fundamentally rests with the customer and customer action is ultimately required to fully effectuate the outcomes that the Commission and state desire. Customer interest in solar energy is now recognized as pathway to encourage energy efficiency and storage, so ensuring robust customer interest in rooftop solar supports these other policy goals. The design of the CSI was predicated on such an understanding and that understanding impacted many aspects of the CSI. For example, the decision to provide customers with information about available energy efficiency measures via an audit rather than requiring any particular energy efficiency upgrade was recognized by the stakeholders as a fundamental aspect of a customer focused program that also met SB 1 requirements that “appropriate” energy efficiency measures be taken prior to receipt of CSI incentives. Analysis showed this to be the right approach as CSI customers' uptake energy efficiency at greater levels than the general energy consumer.³

In addition, TASC requests two modifications to this guiding principle. First, it should explicitly recognize that other State and Commission policies and goals include reduction of greenhouse gas emissions, and continued deployment of customer-sited renewable energy as a significant and critical action to meet that goal. Second, TASC recommends that the list of distributed energy resources be expanded to include electric vehicles. The Commission has taken a number of actions over the past several years to support the adoption of EVs consistent with broader state policy goals. It is our understanding that approximately 40% of EV owners also invest in solar PV so we believe it is important that any successor tariff continue to support the adoption of EVs.

³ See *California Solar Initiative Annual Program Assessment*, June 2010, pg. 10. (CSI Program participants install more energy efficiency measures than non-participants.) Available at: http://www.cpuc.ca.gov/NR/rdonlyres/CE1D2316-405C-4C94-A805-A68A1988D640/0/2010APA_final.pdf

Guiding Principle #7: “The future tariff or contract should include customer privacy protections.”

It is unclear based on the discussion at the workshop what Staff may be considering in regards to customer privacy protections. Representatives of TASC raised customer privacy as one aspect of concerns we have regarding possible proposals to design the successor tariff authorized by AB 327 as a buy all/credit all tariff similar to those being developed in Minnesota and in place in Austin Energy’s service territory. As TASC noted at the workshop, we believe tariffs that require customers to enter into a buy all/credit all framework with their utility violate federal regulations under the Public Utility Regulatory Policy Act of 1978 (PURPA), may constitute a regulatory takings, may be beyond the Commission’s jurisdiction to regulate in the absence of safety and reliability concerns, and may raise serious privacy concerns related to what a citizen does on their private property in the absence of safety or reliability concerns. To be clear, we are not opposed to consideration of a buy all/credit all tariff as another option for customers who invest in customer-sited renewable DG, but we do have serious concerns about the legality and propriety of forcing customers into such a framework as their only option.

As noted in these comments previously, customers have a fundamental right to self generate their own power and, thereby, consume as much or as little energy from the grid as they choose. We believe this right should be incorporated into a General Principle as it foundational to future discussions concerning any successor tariff developed pursuant to AB 327 and replace the current General Principle #7. Recognition of this right is not at odds with the state’s goals regarding DER. To the contrary, recognition of this right provides needed clarity regarding development of a successor tariff by recognizing the limits of state authority. Moreover, to the extent certain proposals are motivated by concerns over the magnitude of cost shifts due to customer reduction in energy purchases from utilities due to customer investment in customer-sited renewable DG, those concerns are being addressed through rate design changes in R.12-06-003. Recognition of a customer’s right to self generate their own power and, thereby, purchase as little or as much energy as they need from their utility also fundamentally recognizes that customers should be able to enjoy the financial benefits of their investment in DER.

Q2. Definitions and Metrics for Sustainable Growth

TASC believes it is important to note that AB 327 provides that the new tariff is to ensure “that customer-sited renewable distributed generation continues to grow sustainably” (emphasis added). This means recent growth, including during 2012-2013, is considered to be sustainable by the Legislature. In our view, sustainability entails robust growth and is best achieved by preserving and fostering market conditions that ensure that customers continue to adopt customer-sited renewable DG at a rate and under terms that are sufficient to support multi-year industry investment and expansion. To meet a market sustainability objective any successor tariff must consider the impact of different designs on project economics over a reasonable range of project sizes, system costs and rate scenarios.

Additionally, the Commission should consider specific metrics to assess whether or not the sustainability goal is being met such as the rate of customer adoption, in terms of project

deployment and system capacity.⁴ Examples of such metrics could be the number of systems installed and the number of megawatts of customer-sited DG installed on a yearly basis, and they could be compared against specific benchmarks developed by the Commission to assess market health. Any failure to meet or surpass these benchmarks (which would act as floors, not ceilings) would trigger a reevaluation and subsequently, a course correction. To that end, the Commission should, as part of its evaluation of any successor tariff, identify possible benchmarks.

Comments on Possible Program Elements

Possible Program Elements: Consistent with our view that customers have a right to self generate their own power and, thereby, consume as much or as little energy from the grid as they choose, we believe that the assessment of the costs and benefits required under AB 327 when developing a successor tariff should only focus on the costs or benefits of exports to the grid. Similarly, any successor tariff should only focus on compensation for exports and should preserve customers' settled expectation that reductions in their consumption of energy provided by their utility will result in a reduction in their utility bills.

As noted in these comments, it may be useful to have optional successor tariffs in addition to a core successor tariff that addresses the needs or desires of certain customer segments, such as farmers wanting a simple, feed-in-tariff. We support clarifying the language in the Possible Program Variants section of the Program Element Options chart to support this concept.

Local Grid Adders/Interconnection Fee Exemptions: While development of adders based on local grid benefits is an intriguing idea that could provide a financial incentive for developers to target customer-sited renewable DG at locations in the grid that would uniquely benefit from these resources, we believe development of an AB 327 successor tariff should focus on simplicity at this point in time. As the Commission and IOUs develop distribution resource plans required by Public Utilities Code Sec. 769, more information will come to light regarding grid locations that would most benefit from DER and the magnitude of such benefits. We are confident, based on experience with other utilities, such as the Long Island Power Authority, that are already engaged in such efforts, that with proper planning and analysis such locations can be identified.⁵ DG resources are dispersed, relatively smaller in size than wholesale resources, largely located in urban and suburban areas, and are generally sized to meet on-site load. Many of these factors have been identified in the CEC commissioned report *Distributed Generation Integration Cost Study: Analytical Framework* (November 2013)⁶ and in Southern California Edison's *The Impact of Localized Energy Resources on Southern California Edison's*

⁴ It is important for the metrics and their interpretation to accurately reflect mid-to-long term impacts of policy changes so that short-term surges in growth in response to an expiring regime, or growth which is positive, but below the expected trend, is not misinterpreted.

⁵ See, e.g. Proposal Concerning Modification to LIPA's Tariff for Electric Service, pg. 4: <http://www.lipower.org/pdfs/company/tariff/proposals-FIT070113.pdf>.

⁶ Shlatz, Eugene, Nathan Buch, and Melissa Chan. 2013. *Distributed Generation Integration Cost Study: Analytical Framework*. California Energy Commission. CEC-200-2013-007. Available at: <http://www.energy.ca.gov/2013publications/CEC-200-2013-007/CEC-200-2013-007.pdf>

Transmission and Distribution System (May 2012)⁷ as the factors that decrease the cost of interconnecting DG resources to the grid. Accordingly, it is not surprising that customer-sited DG systems generally require minimal upgrades to ensure safe and reliable interconnection. Based on the findings of these studies, we believe sufficient evidence exists to allow for continued consideration of interconnection fee exemptions as a means to support continued, sustained growth in customer-sited renewable DG..

Greater than 1 MW systems: TASC has no suggestions to offer at this time on how to assess what substantial impact on the grid may mean under AB 327. We look forward to reviewing stakeholders comments on the topic and engaging in further discussions during the course of the upcoming docket.

Alternatives in Disadvantaged Communities: TASC agrees with stakeholders that virtual net metering remains an important element in promoting the installation of customer-sited DG resources on low-income multifamily housing and should be continued as one way of supporting development of DG resources at these locations. We also continue to support exploration of IREC's CleanCARE proposal as a way to deploy CARE resources in a manner that provides CARE enrollees with an option to participate in customer-oriented clean energy programs consistent with state goals. While not related to AB 327 efforts to develop a successor tariff, one policy change that would allow private capital to support low-income energy consumers investing in customer-sited renewable DG would be to allow third-party ownership of solar energy systems supported by the SASH program. TASC members support exploration of this topic in the appropriate forum.

Additional Comments: TASC has no additional comments.

⁷ Southern California Edison, Distribution Engineering and Advanced Technology. 2012. *The Impact of Localized Energy Resources on Southern California Edison's Transmission and Distribution System*. Available at: http://www.energy.ca.gov/2013_energypolicy/documents/2013-08-22_workshop/SCE_Local_Energy_Resources_Study.pdf